

# ***Office of Chief Counsel Chicago Office***

**Annual Plan  
Fiscal Year 2006**



***Steven A. Silbergleid  
Chief Counsel***

**RECOMMENDED**

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**Steven A. Silbergleid**  
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October 2005

**APPROVED**

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**Marvin E. Gunn, Jr., Manager**  
**Chicago Office**

Approval of this Plan constitutes an agreement between the two parties as to performance commitments; it is not an endorsement of projected resource requirements.

## **Executive Summary**

The FY06 Office of Chief Counsel (OCC) Annual Performance Plan (APP or Annual Plan) is a current best estimate of the level of legal and administrative services that OCC will be asked to provide to the Office of Science (SC) and non-SC elements, including legal support to NA-26 (MOX/TPBAR/PDCF), and Intellectual Property (IP) support to other Operations and Field organizations. A large percentage of the FY06 initiatives, expectations, measures and targets are the same, or very similar to, those that OCC has been tracking for the past several years.

Once again, the biggest manpower demand is reflected in the first initiative under Support OneSC.

Workload indicators use a baseline of FY97-FY03, which is made possible by the continuous tracking of the same indicators.

OCC would also like to highlight the possible loss of up to seven (7) attorneys by the end of FY06. This is a critical year with respect to filling vacancies as they occur.

## **Key Considerations**

This APP is based on the following key considerations and assumptions (from the OCC FY06-08 Resource Needs Assessment):

1. The Chicago Office (CH) is given responsibility to conduct three (3) Management and Operating Contract (M&O) SC Source Evaluation Boards (SEBs), review two (2) Extend/Compete Packages, negotiate one (1) M&O contract extension, and support two additional M&O actions (one extend/compete and one SEB).
2. Headquarters' (HQ) solicitation and contract reviews are timely and comments are reasonable.
3. Sufficient travel funds are provided in connection with assumption 1, above. [two (2) attorneys to travel on Argonne National Laboratory (ANL) and Fermi National Accelerator Laboratory (FNAL); one (1) to travel on Ames, two (2) on Stanford Linear Accelerator Center (SLAC), Princeton, and Brookhaven National Laboratory (BNL).]
4. MOX travel is funded by the Office of Acquisition and Assistance (ACQ) (~\$2,000).
5. OCC does not need to provide Department of Energy (DOE) Counsel for Administrative Review Hearings for Pacific Northwest National Laboratory.
6. OCC Full Time Employee (FTE) allocation is increased from 28 to 29 to accommodate succession planning (Program Analyst FTE takes over the numerous OCC reporting and administrative requirements) and attorney vacancies can be filled.
7. MA-HR provides timely hiring assistance.
8. OCC receives funding for five (5) support service administrative staff – two (2) in the General Law Division (GL) and three (3) in the Intellectual Property Law Division (IPL).
9. Deputy Chief Counsels make one customer call to East and West coast each year.

10. The four (4) Attorneys on East and West Coast visit Chicago once each year.
11. No OCC staff enrolled in Executive Potential Programs or SES programs.
12. Standard Based Management System travel is funded by SC.
13. IPL can continue to utilize support services contracts for patent processing and drafting support.

## **Key Customers**

The following are the principal external and internal customers of OCC:

EXTERNAL	INTERNAL
General Counsel	The Manager/Office of the Manager
Other HQ Elements	Office of Acquisition and Assistance (ACQ)
Other DOE Field Elements <sup>1</sup>	Site Offices
Department of Justice (DOJ)	CH Matrix Organizations
Freedom of Information Act/Privacy Act (FOIA/PA) Requesters	CH employees

Consistent with the CH concept of "customer service," OCC personnel work proactively and collaboratively with CH elements and other customers. This means that OCC personnel, to the maximum extent possible, consistent with their professional responsibilities, function as if they were an integral part of the CH element being provided the service.

OCC major services to its customers fall within four major functional areas:

- (a) Providing legal services to CH and other DOE elements.

### **Key Services:**

- 1) Reviewing documents, contracts, agreements for legal sufficiency and conformance with DOE/CH policy.
- 2) Assisting with negotiation of contracts and agreements, including development of negotiation strategies.
- 3) Administering legal and intellectual property aspects of DOE contracts and subcontracts, including enforcement of delivery

<sup>1</sup> Includes ID, OH, GO, NETL, RFO, and Albany Research Center.

- rights, invention reporting, and patent clearances for contract closeout.
- 4) Providing legal advice, opinion and interpretation of law.
- 5) Serving as legal advisor on acquisition boards/panels.
- 6) Overseeing and appraising contractor legal activities.
- 7) Representing DOE in administrative review processes, federal or state regulatory proceedings, disputes, grievances, and other matters.
- 8) Providing litigation management oversight and assisting in litigation matters, to include reviewing legal bases of claims and recommending final action.
- 9) Providing legal advice and guidance to the OneSC Restructuring and Reengineering teams, including leading the Model Contract Initiative.

(b) Providing legal services directly to CH employees, consistent with our responsibilities to management.

Key Services:

- 1) Providing ethics training and counseling, including instruction on standards of conduct and outside employment.
- 2) Approving personal property damage/loss claims and relocation expenses reimbursement requests.
- 3) Providing post-employment reviews and advising on employees' rights as Federal employees.

(c) Protecting intellectual property rights of the government and managing intellectual property.

Key Services:

- 1) Receiving, managing and processing DOE-funded inventions.
- 2) Prosecuting patent applications on behalf of the Government.
- 3) Processing copyright and patent waiver requests.
- 4) Obtaining confirmatory licenses and assignments on behalf of the Government.
- 5) Obtaining appropriate trademarks/servicemarks and mask works protection for the Government.
- 6) Conducting patent clearances for reports and publications.
- 7) Developing intellectual property management plans for DOE programs.

(d) Championing and administering CH's Freedom of Information Act/Privacy Act (FOIA/PA) Programs.

Key Services:

- 1) Maintaining the official CH tracking systems for all requests.
- 2) Issuing procedures to CH staff in conformance with requirements of Federal statute and DOE regulations and policy.
- 3) Supporting/coordinating with CH staff, HQ staff, and Field and other federal agency FOIA/PA officers.
- 4) Providing legal advice and interpretation and preparing denial letters, as necessary.

## **Resources, Measures, Targets and Initiatives**

**Directions:** For the **Chicago Office Critical Outcomes** that your organization will achieve or support, identify the supportive **Initiatives** (projects, programs, activities or actions) that your organization will undertake. Initiatives that represent core functions but are not related to specific Critical Outcomes should also be listed under an appropriate priority. For each Initiative, develop corresponding **Measures** and **Targets** that can be used to evaluate and communicate your performance. For each Priority, please identify anticipated **Workload Indicators** and (estimated) **resources** (number of staff in each type of position; and description funding or other needs required for travel, training, support services, and other expenses) required to support the Initiatives.

### **Priority: Active Support to SC, Other DOE Organizations**

<b>Critical Outcomes</b>	<b>Initiative</b>	<b>Expectations or Measures – Targets</b>
CO-1. SC-CH successfully completes all assigned M&O contract competitions or extensions for the operation of Fermilab, Ames Laboratory, Princeton Plasma Physics Laboratory (PPPL), and ANL.	1. OCC leads and/or serves as legal advisor to three SEBs for Competition of M&O contracts for SC-Laboratories and one SEB for an EM M&O.	Provide timely and quality legal support for: 1. Award of ANL contract – by end of fourth quarter. 2. Selection of Contractor to manage FNAL – by end of fourth quarter. 3. Selection of Contractor to manage Ames – by end of fourth quarter 4. Initiate West Valley SEB-first quarter.
	2. OCC supports the negotiation of an extension of the M&O contract for two Laboratories/ facilities and two extend/compete packages.	Provide timely and quality legal support for: 1. Completion of M&O contract negotiation for PPPL and Advanced Mixed Waste treatment Project – by end of fourth quarter and second quarter, respectively. <sup>2</sup> 2. Extend/Compete for SLAC and BNL by end of second and third quarter respectively.
CO-2. All acquisition and assistance	3. See OCS-2.	See OCS-2.
	4. See CO-8.	See CO-8

<sup>2</sup> Assumes no competition

Critical Outcomes	Initiative	Expectations or Measures – Targets
award actions are completed by September 30, 2006, in a legal and ethical manner.	5. OCC administers an effective comprehensive Ethics Program for CH and Site Office employees.	<ol style="list-style-type: none"> <li>1. Punctual review of ~195 OGE 450s - within <u>thirty</u> days of receipt of complete information.</li> <li>2. Punctual issuance of Ethics opinions - within <u>fourteen</u> days of receipt of complete request.</li> </ol>
CO-3. Customer expectations are met while safeguarding SC-CH Function, Responsibilities and Authorities.	6. Award actions are in compliance with statutes, regulations, and other requirements.	<ol style="list-style-type: none"> <li>1. Provide quality and timely legal support to development of Policy guidance implementing procurement requirements.</li> </ol>
<p>CO-4. OneSC Phase II Human Resource and Acquisition reengineering efforts are completed.</p> <p>EESP-3. Non-SC-CH led OneSC Phase II reengineering efforts yield effective and efficient processes and procedures through the support of SC-CH team members.</p>	7. OCC Staff serve as Team Members and provide legal support to OneSC Phase 2 management system and subject area reengineering teams.	<ol style="list-style-type: none"> <li>1. Number of Staff serving on reengineering teams - two.</li> <li>2. Number of Staff who assist in developing procedures – three.</li> </ol>
CO-5. Four nuclear certified reference materials are issued and impurity analytical capability for reference materials and measurement evaluation samples is established.	8. OCC provides legal support to NBL development of cost-recovery process to price nuclear Certified Reference Material (CRM).	<ol style="list-style-type: none"> <li>1. Provide timely and quality legal support for development of CRM cost-recovery process.</li> </ol>

Critical Outcomes	Initiative	Expectations or Measures – Targets
<p>CO-6. All assigned personnel security actions are completed on time and in accordance with DOE policy.</p> <p>OCC-1. Effective protection of the Government's interest in Litigation.</p>	<p>9. Quality and timely legal representation in administrative and other judicial proceedings brought against the Government.</p>	<p>Quality and timely legal support for:</p> <ol style="list-style-type: none"> <li>1. All assigned personnel security actions.</li> <li>2. Litigation handled by DOJ (e.g., <u>Mlynczak v. Bodman</u>, <u>Balamut v. Bodman</u>, <u>Touret v. DOE et al.</u>).</li> <li>3. Representation of the DOE in EEO, Merit Systems Protection Board and other Administrative hearings.</li> </ol>
<p>CO-7. By providing exceptional support to customers, SC-CH is recognized as technical leaders and its technical services remain in high demand by all customers.</p>	<p>10. OCC as the DOE Center of Excellence for Intellectual Property provides intellectual property (IP) legal support to SC as well as non-SC organizations and projects.</p>	<ol style="list-style-type: none"> <li>1. Provide timely and quality IP legal review of approximately 6500 acquisition and assistance awards made by CH, as well as non-SC organizations.</li> <li>2. Provide IP review and oversight to seven (7) SC laboratories and four (4) non-SC laboratories.</li> <li>3. Support the establishment of a Center for Advance Energy Studies in Idaho (scheduled to be completed by 2010).</li> <li>4. Support the Next Generation Nuclear Power initiative (Jan 2006).</li> <li>5. <b>Support the Advanced Mixed Waste Treatment Project extend/complete decision (Nov 2005).</b></li> <li>6. Provide IP guidance on the President's Hydrogen Program and various other initiatives conducted by the Office of Energy Efficiency and Renewable Energy.</li> <li>7. Support the Fossil Energy Clean Coal Power Initiative.</li> </ol>



Critical Outcomes	Initiative	Expectations or Measures – Targets
CO-8. SC-CH is recognized as the Center of Excellence in DOE acquisition and assistance activities and services remain in high demand by all customers.	11. OCC provides required legal support to MOX and PDCF Programs.	Provide timely and quality legal support for: <ol style="list-style-type: none"> <li>1. Procurement of Construction Contractor for MOX Fuel Fabrication Facility.</li> <li>2. Integrated Project Team.</li> <li>3. Approval of Pub. L. 85-804 indemnification.</li> <li>4. Negotiation and award of Site Prep contract.</li> <li>5. Negotiation of PDCF design change BCP.</li> <li>6. Negotiation of MOX re-baselining.</li> <li>7. Negotiation of the Russian Technology Transfer Fee Agreement.</li> <li>8. Negotiation of Cogema contract to effect design transfer and engineering support.</li> </ol>
CO-9. Acquisition and assistance funding modifications and STARS reporting requirements are completed in a timely and accurate manner.	N/A	
CO-10. Information Technology systems are available and functioning 99% of the time.	12. Maintain Legal Action Tracking, FOIA/PA, and Patent Management Information System (PATMIS) systems.	<ol style="list-style-type: none"> <li>1. Actions are entered into appropriate data bases within ten (10) business days.</li> <li>2. MDSS workload indicators updated within ten (10) business days after close of quarter.</li> </ol>
	13. Update status of workload indicators.	

Critical Outcomes	Initiative	Expectations or Measures – Targets
C0-11. DOE's Intellectual Property interests are protected and technology transfer and commercialization efforts are completed in a timely fashion.	14. OCC provides support to the DOE technology transfer and commercialization effort.	<ol style="list-style-type: none"> <li>1. Provide quality and timely legal review of Work for Others (WFO), Cooperative Research and Development Agreements (CRADAs), Joint Work Statements, etc.</li> <li>2. Average review time is less than 3 days and 90% of reviews are under 3 days.</li> </ol>
	15. OCC protects the Government's interest in IP.	<ol style="list-style-type: none"> <li>1. File 20 or more patent application on behalf of DOE.</li> <li>2. Process at least 575 inventions to final disposition.</li> <li>3. Manage inventions reported from seven (7) SC laboratories and four (4) non-SC laboratories.</li> </ol>

Workload Indicators	Staffing	Travel	Training	Support Services	Other
Major M&O actions (CO-1)		\$50,000.	\$	\$56,000.	\$36,000 GL and IPL library subscriptions  \$9000 Office supplies <sup>3</sup>
GL Contract Reviews (CO-2) GL Directives Reviews (CO-3) Other GL Reviews (CO-3)		\$4,000.		\$56,000.	
Administrative Litigations (CO-6)					
GL 450 Reviews					
CO-8 Support to MOX		[ACQ funds travel @ ~\$2,000 ]			
IP WFO Reviews (CO-11) IP CRADA Reviews IP Copyrights (CO-11)					
IP Contractual Agreement Close-outs (CO-11)					
IP New Contractual Agreement and Mod Reviews (CO-11)				\$168,000.	
Invention Disclosures Received (CO-11)					

<sup>3</sup> Includes East and West Coast Attorneys Supplies.

Workload Indicators	Staffing	Travel	Training	Support Services	Other
Inventions Pending (CO-11)					
Inventions Disposed (CO-11)				IP outside law firm contracts (~\$130,000 from HQ-GC)	
Patent Applications Filed (CO-11)				\$4,500 IPL Drafting Services	
Confirmatory Licenses Submitted (CO-11)					
Waiver Statements of Considerations Forwarded (CO-11)					
Total Staffing					
GL	10				
IPL	15.8				
Support Service Contractors	5.0				

## Priority: Outstanding Customer Service

Critical Outcomes	Initiative	Expectations or Measures – Targets
OCS-1. Organizational Customer Service plans and the commitments contained within are met or exceeded.	1. OCC employees participate actively in CH/OCC Customer Service activities.	1. Timely development of expectations with Site Office and Business Group Managers – by end of first quarter. 2. Percentage of OCC staff who actively participate in CH/OCC Customer Service activities – 80%.
OCS-2. High quality customer service is delivered and verified through customer surveys with at least 85% of all customers satisfied or better.	2. Customers surveyed indicate they are Satisfied or Highly Satisfied with OCC services.	1. Percentage of customers Satisfied or Highly Satisfied – 90%. 2. Percentage of OCC on-time reviews – 90%.
OCS-3. Customer relationships and communication are improved as demonstrated by improved communication tools and formal communication such as frequent visits to meet with customers		1. Chief Counsel, Deputy Chief Counsels meet with major customers at least once per year.

Workload Indicators	Staffing	Travel	Training	Support Services	Other
% On-time Reviews (OCS-2)		\$	\$	\$	\$
Face to Face Customer Visits (OCS-3)	1	\$8,500.			
Total Staffing					
GL	.2				
IPL	.8				

**Priority: Most Effective, Efficient Systems and Processes**

Critical Outcomes	Initiative	Expectations or Measures – Targets
EESP-1. Complete documentation and characterization of SC-CH operating systems and processes.	1. Characterization of OCC key processes is completed, and key processes are streamlined.	1. Complete characterization of OCC key processes and systems – by end of first quarter. 2. Complete process improvement action on three (3) key processes – by end of third quarter. 3. Complete process improvement action on two (2) additional key processes – by end of fourth quarter.
EESP-2. Improved processes and procedures are verified by documented time efficiencies and cost savings.	2. Maximum utilization of limited resources for priority OCC work/activities.	1. Timely development of criteria to prioritize OCC resources - by end of second quarter. 2. Reduction in law library costs - 10%.
EESP-3. Non-SC-CH led OneSC Phase II reengineering efforts yield effective and efficient processes and procedures through the support of SC-CH team members.	See CO-3.	
EESP-4. All SC-CH organizations provide and receive data and information needed to develop and maintain effective and efficient operations.	3. Review of proposed changes in laws, regulations, policy, e.g., Federal Register reviews.	1. Timely communication of proposed changes to customers, as applicable, within thirty (30) days.

Critical Outcomes	Initiative	Expectations or Measures – Targets
EESP-5. Freedom of Information and Privacy Act requests are handled in a quality and timely manner.	4. OCC, CH and designated Site Offices meet FOIA and PA Program requirements.	<ol style="list-style-type: none"> <li>1. Percentage of CH on-time responses [within 20 business days of acknowledgement or extension deadline] – 85%.</li> <li>2. Percentage of CH overdue responses within additional 20 business days of deadline – 85%.</li> <li>3. Percentage of OCC on-time responses [within 20 business days of acknowledgement or extension] – 95%.</li> <li>4. Percentage of OCC overdue responses within additional 20 business days of deadline – 95%.</li> <li>5. Average processing time of CH overdue responses – 20 days.</li> <li>6. Average time to provide CH-OMC with new information for posting – within 30 days of availability of the information to OCC.</li> </ol>

Workload Indicators	Staffing	Travel	Training	Support Services	Other
All-Hands Travel (EESP-4)	.1	\$4,800.			
CH FOIA Requests (EESP-5)	1.4				
CH FOIA Responses					
Total Staffing GL IPL	1.5 FTE ~0				

## Priority: Strategically Managed Human Capital

Critical Outcomes	Initiative	Expectations or Measures – Targets
HC-1. Workforce management plans are developed that address staffing (both Federal and support service contractors), succession planning and training priorities resulting in maximum utilization of limited resources for priority/mission critical activities.	1. OCC utilizes workforce management and development tools to manage its human capital.	<ol style="list-style-type: none"> <li>1. Continuing Legal Education requirements satisfied – 100%.</li> <li>2. Lead and back-up expertise in every OCC functional area is sufficient to assure availability of quality legal advice at all times.</li> <li>3. Update, review and approve Individual Development Plans (IDP's) by end of second quarter.</li> <li>4. Continue to implement OCC staffing and succession planning strategies.</li> </ol>
	2. OCC effectively uses contracts and support service personnel to bolster its human capital needs.	<ol style="list-style-type: none"> <li>1. Monitor and continue to evaluate the drafting and patent preparation legal services contracts.</li> <li>2. OCC support services administrative support is maintained or increased.</li> </ol>
HC-2. Realignment of affected staff has been accomplished in accordance with Most Efficient Organization implementation and other Departmental restructuring initiatives.	3. OCC provides legal support to NBL Most Efficient Organization (MEO) Team A-76 Competition.	<ol style="list-style-type: none"> <li>1. Provide timely and quality legal support for NBL MEO team to submit a quality on-time proposal.</li> </ol>
HC-3. SC-CH employees are increasingly satisfied with their jobs in order to maximize employee potential and accomplish mission objectives.	4. OCC employees are Satisfied or Highly Satisfied with their job.	<ol style="list-style-type: none"> <li>1. Employee Satisfaction on OCC employee survey – 90% Satisfied or Highly Satisfied.</li> </ol>



Critical Outcomes	Initiative	Expectations or Measures – Targets
HC-4. Individual performance is recognized and rewarded through timely implementation of employee performance management systems consistent with Departmental programs.		100% if employee mid-year and year end appraisals are completed on time.

Workload Indicators	Staffing	Travel	Training	Support Services	Other
HC-1 (CLE)	.1 FTE	\$18,500. (for training)	\$7,500.	\$	\$
HC-1 (Training)	.6 FTE		\$7,000.		\$4,800. (Bar Fees)
Total Staffing					
GL	.3 FTE				
IPL	.4 FTE				

## **Summary Resource Requirements**

**Directions:** Summarize the number of FTE and financial resources estimated to be required to staff and implement the FY 2006 initiatives and workloads described above. *Funding does not include amounts anticipated from ACQ and OGC.*

Resource Summary	FTEs	Funding
FTEs needed to execute annual plan (sum from table)	29	
Current onboard strength	28	
Travel		\$ 85,800.
Training		\$ 14,500
Support Services		\$284,500
Other Related Expenses		\$ 49,800
<b>Total Funding Required</b>		<b>\$434,600</b>